

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
BREMERS INC.,

Appellant,

vs.

PUGET SOUND AIR POLLUTION  
CONTROL AGENCY,

Respondent.

PCHB No. 589

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

THIS MATTER being an appeal to a notice of civil penalty of \$100.00 for an alleged smoke emission violation; having come on regularly for hearing before the Pollution Control Hearings Board on the 12th day of July, 1974, at Tacoma, Washington; and appellant, Bremers Inc., appearing through its attorney, William Fraser and respondent, Puget Sound Air Pollution Control Agency, appearing through its attorney, Keith D. McGoffin; and Board members present at the hearing being W. A. Gissberg (presiding) and Chris Smith; and the Board having considered the sworn testimony, exhibits, records and files herein and having entered on the 2nd day of

1 August, 1974, its proposed Findings of Fact, Conclusions of Law and  
2 Order, and the Board having served said proposed Findings, Conclusions  
3 and Order upon all parties herein by certified mail, return receipt  
4 requested and twenty days having elapsed from said service; and

5 The Board having received no exceptions to said proposed Findings,  
6 Conclusions and Order; and the Board being fully advised in the premises;  
7 now therefore,

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed  
9 Findings of Fact, Conclusions of Law and Order, dated the 2nd day of  
10 August, 1974, and incorporated by this reference herein and attached  
11 hereto as Exhibit A, are adopted and hereby entered as the Board's  
12 Final Findings of Fact, Conclusions of Law and Order herein.

13 DATED this 29<sup>th</sup> day of August, 1974.

14 POLLUTION CONTROL HEARINGS BOARD

15   
16 W. A. GISSBERG, Member

17   
18 CHRIS SMITH, Member  
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22  
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25 FINAL FINDINGS OF FACT,  
26 CONCLUSIONS OF LAW  
27 AND ORDER

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FINDINGS OF FACT,  
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AND ORDER

A formal hearing on the appeal of Bremers, Inc. to a notice of civil penalty of \$100.00 for an alleged smoke emission violation came on before W. A. Gissberg (presiding) and Chris Smith, on July 12, 1974 in Tacoma, Washington.

Appellant appeared by and through its attorney, William Fraser; respondent by its attorney, Keith D. McGoffin.

Having heard the testimony and being fully advised, the Board makes the following

EXHIBIT A

FINDINGS OF FACT

I.

On April 10, 1974, at 1:25 p.m., smoke was emitted from the stack of the Eagles building (owned by appellant) in Bremerton, Washington. Various citizens complained to respondent. A two minute observation of the smoke by respondent's employee was interrupted by the on-scene appearance of Mr. Bremer, the president of the appellant corporation. A conversation then ensued followed by an inspection of the Diesel burning furnace which was the cause of the smoke. No citation was issued by respondent.

II.

On April 15, 1974, at 8:07 a.m., smoke was again seen emitting from the stack of the Eagles building for six consecutive minutes of a shade darker than no. 2 on the Ringelmann Chart, namely a Ringelmann varying from 2 3/4 to 3 1/4. As a result respondent served on appellant (by certified mail) Notice of Violation No. 7549 and Notice of Civil Penalty No. 1538, which is the subject of this appeal.

III.

The cause of the smoke emission was a malfunction of the Diesel furnace, which was repaired on April 17, 1974 and which has been operating uneventfully since then. Mr. Bremer could not remember whether he ordered the furnace repaired before or after the episode of April 15, 1974.

IV.

Section 9.03(a)(1) of respondent's Regulation I makes it unlawful to cause or allow the emission of an air contaminant darker in shade

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

1 than no. 2 on the Ringelmann Chart for more than three minutes in any  
2 hour.

3 V.

4 That any Conclusion of Law hereinafter recited which should be  
5 deemed a Finding of Fact is hereby adopted as such.

6 CONCLUSIONS OF LAW

7 I.

8 Appellant was in violation of Section 9.03(a)(1) of respondent's  
9 Regulation I,

10 II.

11 The civil penalty of \$100.00 is less than the maximum of \$250.00  
12 and is reasonable under the circumstances.

13 III.

14 Any Finding of Fact which should be deemed a Conclusion of Law  
15 is hereby adopted as such.

16 ORDER

17 The imposition of the civil penalty is affirmed.

18 DONE at Lacey, Washington, this 2<sup>nd</sup> day of August, 1974.

19 POLLUTION CONTROL HEARINGS BOARD

20  
21 W. A. Gissberg  
22 W. A. GISSBERG, Presiding Officer

23  
24 Chris Smith  
25 CHRIS SMITH, Member

26  
27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW

AND ORDER